

It was alleged to be misbranded in that the statements "Weight 1 Pound" and "Wt. 1 Lb." were false and misleading and were borne on the packages so as to deceive and mislead the purchaser since they represented that each of the packages contained 1 pound weight of the article, whereas each of the packages did not contain 1 pound weight of the article but contained a less amount. The article was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On October 14, 1937, the case came on for trial before the court and a jury and at the conclusion of the trial, the court directed the jury to return a verdict of not guilty.

M. L. WILSON, *Acting Secretary of Agriculture.*

28942. Adulteration and misbranding of egg noodles. U. S. v. 286 Boxes of Noodles. Default decree of condemnation. Product delivered to charitable organizations. (F. & D. No. 41377. Sample No. 1241-D.)

This product was deficient in egg solids and contained added yellow coal-tar color.

On February 1, 1938, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 286 boxes of noodles at Washington, D. C., alleging that the article had been shipped in interstate commerce on or about January 6, 1938, by the Blue Ribbon Noodle Co., Inc., from Wilkes-Barre, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Blue Ribbon Pure Egg Noodles * * * Blue Ribbon Noodle Co., Inc., Wilkes-Barre, Pa."

It was alleged to be adulterated in that a product deficient in egg solids and containing added yellow coal-tar color had been substituted in whole or in part for pure egg noodles, which it purported to be; and in that it was colored in a manner whereby inferiority was concealed.

Misbranding was alleged in that the statement "Pure Egg Noodles" was false and misleading and tended to deceive and mislead the purchaser when applied to an article deficient in eggs and containing added yellow coal-tar color.

On March 18, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable organizations.

M. L. WILSON, *Acting Secretary of Agriculture.*

28943. Adulteration and misbranding of ketchup. U. S. v. Alvin A. Baumer (Baumer Food Products Co.). Tried to the court. Judgment of guilty. Sentence suspended and defendant placed on probation for 1 year. (F. & D. No. 39495. Sample No. 21622-C.)

This product was labeled to indicate that it was tomato ketchup; whereas it consisted in part of apple pulp and was artificially colored.

On March 28, 1938, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Alvin A. Baumer, trading as Baumer Food Products Co., at New Orleans, La., alleging shipment by said defendant in violation of the Food and Drugs Act on or about January 15, 1937, from the State of Louisiana into the State of Mississippi of a quantity of ketchup which was adulterated and misbranded. The article was labeled in part: "Baumer's Crystal Brand * * * Ketchup * * * Baumer Food Products Co., New Orleans, La."

It was alleged to be adulterated in that a mixture of tomato pulp, apple pulp, vinegar, salt, and spices, artificially colored, had been substituted for ketchup, which it purported to be.

Misbranding was alleged in that the statement "Ketchup," borne on the bottle label, was false and misleading in that it represented that the article was tomato ketchup; whereas it was not tomato ketchup, but was a mixture of tomato pulp, apple pulp, vinegar, salt, and spices artificially colored in a manner to simulate tomato ketchup. It was alleged to be misbranded further in that the bottles bore designs and devices which were false and misleading, namely, a device consisting of a container of a shape characteristic of containers used for tomato ketchup, including a screw cap closure over a crimp cap, also characteristic of tomato ketchup bottles, and the design of an elliptical red background to the word "Ketchup" on the main label simulating in general appearance the design of a tomato often appearing on labels for tomato ketchup, representing the article to be tomato ketchup; whereas it was not.

The case came on for trial before the court without a jury on April 7, 1938, and was completed on April 13, 1938. Whereupon, the court adjudged the defendant guilty, suspended the imposition of sentence, and placed him on probation for 1 year.

M. L. WILSON, *Acting Secretary of Agriculture.*

28944. Adulteration of walnut meats. U. S. v. Morris Rosenberg. Plea of guilty. Fine, \$150. (F. & D. No. 40793. Sample Nos. 51210-C, 51211-C, 51221-C.)

Samples of these nuts were found to be worm-damaged, moldy, rancid, or decomposed.

On April 25, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Morris Rosenberg, trading at Los Angeles, Calif., alleging shipment by said defendant in violation of the Food and Drugs Act on or about July 24 and 31, 1937, from the State of California into the State of Oregon of quantities of walnut meats that were adulterated. The article was labeled in part: "Walnut Meats * * * Morris Rosenberg * * * Los Angeles."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On May 23, 1938, a plea of guilty having been entered by the defendant, he was sentenced to pay a fine of \$150.

M. L. WILSON, *Acting Secretary of Agriculture.*

28945. Adulteration of catsup. U. S. v. 243 Cases of Catsup. Portion of product released unconditionally. Remainder condemned and destroyed. (F. & D. No. 40985. Sample No. 63019-C.)

A portion of this product contained excessive mold.

On December 3, 1937, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 243 cases of catsup at Marshalltown, Iowa, alleging that the article had been shipped in interstate commerce on or about September 18, 1937, from Matthews, Ind., by Marshall Canning Co., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On December 28, 1937, the Marshall Canning Co., claimant, having filed a petition for the release of 208 cases of the seized merchandise, averring that the product in the said cases complied with the provisions of the law, the court, after hearing the evidence, entered an order granting such release. On May 4, 1938, trial was had before the court with respect to the remainder (24 cases) and judgment was entered ordering that they be condemned and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28946. Adulteration of pears. U. S. v. 1 Carload of Pears. Consent decree of condemnation and destruction. (F. & D. No. 40601. Sample No. 49742-C.)

This product was contaminated with arsenic and lead.

On September 30, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one carload of pears at Chicago, Ill., alleging that the product had been shipped in interstate commerce on or about September 23, 1937, from Derby, Mich., by A. N. Spear, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On October 1, 1937, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28947. Misbranding of canned salmon. U. S. v. 25 Cases of Canned Salmon (and 13 similar seizure actions). Decree of condemnation. Product released under bond for relabeling. (F. & D. Nos. 38347 to 38360, incl. Sample No. 15906-C.)

This product was pink salmon of inferior quality but its labeling represented it to be of superior quality.